

### REMARKS

This Amendment is submitted in response to the Office Action dated April 11, 2003. In the Office Action, the Patent Office rejected Claims 1, 2, 4-9, 11-17, 19 and 20 under 35 U.S.C. §103(a) as being anticipated by *Ohrn* (U.S. Patent No. 6,356,874) in view of *Stanis et al.* (U.S. Patent No. 4,135,241) Further, the Patent Office rejected Claims 3, 10 and 18 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view *Stanis et al.* and further in view of *Bruno et al.* (U.S. Patent No. 6,289,088). Moreover, the Patent Office asserts that the natural evolution of technology would cause a progression from the network of *Ohrn* to the Internet and that *Bruno et al.* is used to illustrate that the Internet is a well known network.

By the present Amendment, Applicant amended Claims 1 and 14 and submits that the amendments to the claims overcome the rejections by the Patent Office for the reasons that follow.

With respect to assertion of the Patent Office that the natural evolution of the technology would cause a progression from the network of *Ohrn* to the Internet, Applicant submits that the evidence of record fails to support the assertion. Additionally, Applicant asserts that *Bruno et al.* fails to illustrate that the Internet is a well know network. Furthermore, Applicant submits that the assertion is an improper basis for formulating a rejection

under 35 U.S.C. §102 and/or §103 and should be withdrawn. Notice to that effect is requested.

As to the rejection of Claims 1, 2, 4-9, 11-17, 19 and 20 under 35 U.S.C. §103(a) as being anticipated by *Ohrn* in view of *Stanis et al.*, Applicant submits that this rejection has been overcome in view of the amended claims and for the reasons that follow.

Amended Claim 1 requires a method for providing bed availability information to a user wherein the user identifies an available bed for a patient and further wherein the bed availability information includes information on beds at a plurality of healthcare facilities wherein the plurality of healthcare facilities receives the patient based on the bed availability at one of the plurality of healthcare facilities. The method has a computer network connected to a database and the bed availability information which is input for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessible by the computer network. Claim 1 also requires inputting a medical condition of a user into the database. Further, Claim 1 requires determining the bed availability in the plurality of healthcare facilities for the user with the medical condition based upon the medical condition of the user.

Amended Claim 14 requires a system for storing and accessing bed availability information to a user wherein the bed availability includes information for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities has a plurality of beds and receives a patient if a bed is available. The system has a computer network and a database associated with the computer network. The system has a means for inputting bed availability information of a plurality of healthcare facilities into the database and a means for accessing the bed availability information and retrieving the bed availability information from the database via the computer network. Further, the system has a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database. Moreover, the system requires a means for determining if a bed is available based on the information about the patient.

The Patent Office alleges that *Ohrn* teaches a method of booking hotel rooms via a user terminal connected to a central data processing device. The Patent Office also alleges that *Ohrn* discloses: a network; a database connected to the computer network; inputting bed availability information for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessible by the

computer network; and providing a first access to the database for finding the bed availability information by a user of the database. Further, the Patent Office alleges that *Ohrn* discloses searching a database based on user entered criteria for the bed availability information. However, the Patent Office admits the *Ohrn* does not specifically disclose entering the individual medical condition of a patient.

The Patent Office alleges that *Stanis et al.* teach entering medical information for the benefit of accurate billing and records management. Further, the Patent Office alleges that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to include a quantity of beds available in the invention of *Ohrn* as taught by *Stanis et al.* for the benefit of accurate billing and records management.

On the contrary to the assertions of the Patent Office, *Stanis et al.* teach "to store temporary information pertaining to the status of the bed (clean, ready, occupied, etc.) and information as to who is the current occupant of the bed". (See *Stanis et al.*, col. 7, lines 48-51.) Moreover, *Stanis et al.* merely teach "a search is made for all bed numbers in locations containing a specified nursing station number and control characters indicating a need for special attention or service." (See *Stanis et al.*, col. 21, lines 25-28.)

Moreover, *Ohrn* does not teach or suggest a method and a system

of providing bed availability information to a user wherein the user identifies an available bed for a patient and further wherein the bed availability information includes information on beds at a plurality of healthcare facilities wherein the plurality of healthcare facilities receives the patient based on the bed availability at one of the plurality of healthcare facilities as required by Claims 1 and 14. Further, *Ohrn* does not teach or suggest a method and a system of providing bed availability having the step of inputting the medical condition of a user into the database and a means for inputting bed availability information of a plurality of healthcare facilities into the database as required by Claims 1 and 14. Still further, *Ohrn* does not remotely teach or suggest a method and a system for providing bed availability information having the step of determining the bed availability in the plurality of healthcare facilities for the user with the medical condition based upon the medical condition of the user and a means for determining if a bed is available based on the information about the patient as required by Claims 1 and 14.

Moreover, *Stanis et al.* do not teach or suggest a method and a system for providing bed availability information to a user wherein the user identifies an available bed for a patient and further wherein the bed availability information includes information on beds at a plurality of healthcare facilities wherein the plurality of healthcare facilities receives the patient based

on the bed availability at one of the plurality of healthcare facilities as required by Claims 1 and 14. Additionally, *Stanis et al.* do not teach or suggest a method for providing bed availability information having a step of inputting bed availability information for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessibly by the computer network as required by Claim 1. Further, *Stanis et al.* do not teach a system for storing and accessing bed availability information having a means for inputting bed availability information of a plurality of healthcare facilities into the database as required by Claim 14. Moreover, *Stanis et al.* do not teach or suggest a method and system for providing bed availability information having the step of determining the bed availability in the plurality of healthcare facilities for the user with the medical condition based upon the medical condition of the user and a means for determining if a bed is available based on the information about the patient as required by Claims 1 and 14.

Applicant respectfully submits that the rejections have been overcome by the amendments to independent Claims 1 and 14. More specifically, neither *Ohrn* and/or *Stanis et al.*, taken singly or in combination, teach or suggest a method of providing bed availability information having the step of inputting the medical

condition of a user into the database and determining the bed availability in the plurality of healthcare facilities for the user with the medical condition based upon the medical condition of the user as taught by Claim 1. Moreover, neither *Ohrn* and/or *Stanis et al.*, taken singly or in combination, teach or suggest a system for storing and accessing bed availability information for a plurality of healthcare facilities wherein the system has a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database and a means for determining if a bed is available based on the information about the patient as required by Claim 14.

Moreover, a person of ordinary skill in the art would never have been motivated to combine *Ohrn* with *Stanis et al.* in the manner suggested by the Patent Office in formulating the rejection under 35 U.S.C. §103(a). Applicant submits that the Patent Office is merely "piece-mealing" references together, providing various teachings and positively defined limitations of Applicant's method and system for providing bed availability information to deprecate the claimed invention. Of course, hindsight reconstruction of Applicant's invention is impermissible. Applicant respectfully submits that amended Claims 1 and 14 distinctly define the present invention from *Ohrn* and/or *Stanis et al.*, taken singly or in combination.

With the analysis of the deficiencies of *Ohrn* and *Stanis et al.* in mind, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ohrn* and *Stanis et al.* in the manner suggested by the Patent Office in formulating the rejections under 35 U.S.C. §103. Therefore, *prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103.

It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all of the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made. Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Applicant's invention, either separately or used in other combinations. A teaching, suggestion, or incentive must exist to make the combination made by Applicant. Interconnect Planning



Corp. v. Feil, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

In view of the foregoing remarks and amendments, Applicant respectfully submits the rejection of Claims 1, 2, 4-9, 11-17, 19 and 20 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Notice to that effect is requested.


With respect to the rejection of Claims 3, 10 and 18 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Stanis et al.* and further in view of *Bruno et al.*, Applicant respectfully submits that the rejections have been overcome by the amendments to the parents claims since *Ohrn*, *Stanis et al.* and/or *Bruno et al.* fail to teach or suggest the steps and features defined in amended Claims 1 and 14. Notice to that effect is requested.

Claims 2-13 depend from Claim 1; and Claims 15-20 depend from Claim 14. These claims are also believed allowable since each sets forth additional novel steps and structural elements of Applicant's method and device, respectively.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is now in condition for allowance. Further, Applicant submits that neither further search nor consideration would be necessitated by entry of this Amendment; therefore, entry of this Amendment is proper and should be effected.

Additionally, Applicant petitions the Patent Office to extend the time limit for responding to the Final Rejection for one month so that the time period is extended to August 11, 2003. Also enclosed herewith is a check in the amount of \$55.00, the requisite fee for requesting this one-month extension of time. If, however, any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,



(Req. No. 35,018)

Brian M. Mattson  
ATTORNEY FOR APPLICANT  
Patents+TMS  
A Professional Corporation  
1914 North Milwaukee Ave.  
Chicago, IL 60647  
(773) 772-6009